

EXTRADITION

Convention signed at Washington July 3, 1856

*Senate advice and consent to ratification, with amendments, August 13, 1856*¹

Ratified by Austria, as amended, November 16, 1856

Ratified by the President of the United States, as amended, December 12, 1856

Ratifications exchanged at Washington December 13, 1856

Entered into force December 13, 1856

Proclaimed by the President of the United States December 15, 1856

Revived for Austria (after World War I) May 6, 1922;² for Hungary May 27, 1922³

Terminated for Austria September 12, 1930, by convention of January 31, 1930,⁴ except for crimes committed prior to that date

Revived for Hungary (after World War II) March 9, 1948,⁵ pursuant to article 10 of treaty of peace signed at Paris February 10, 1947⁶

11 Stat. 691; Treaty Series 9⁷

CONVENTION FOR THE MUTUAL DELIVERY OF CRIMINALS, FUGITIVES FROM JUSTICE, IN CERTAIN CASES, CONCLUDED BETWEEN THE UNITED STATES ON THE ONE PART AND AUSTRIA ON THE OTHER PART

Whereas, it is found expedient for the better administration of justice and the prevention of crime within the territories and jurisdiction of the parties,

¹ The United States amendments called for deletion after the word "forgery" in art. I of the words "or the utterance of forged papers" and addition to art. I of a final sentence reading as follows: "The provisions of the present Convention shall not be applied, in any manner, to the crimes enumerated in the First Article committed anterior to the date thereof; nor to any crime or offence of a political character." The text printed here is the amended text as proclaimed by the President.

² Pursuant to notification (1922 For. Rel. (I) 621) given by the United States in accordance with terms of art. 241 of Treaty of St. Germain-en-Laye signed Sept. 10, 1919 (*post*, p. 277), the benefits of which were secured to the United States by the treaty establishing friendly relations dated Aug. 24, 1921 (TS 659, *post*, p. 215).

³ Pursuant to notification (1922 For. Rel. (II) 577) given by the United States in accordance with terms of art. 224 of Treaty of Trianon signed June 4, 1920 (*post*, HUNGARY), the benefits of which were secured to the United States by the treaty establishing friendly relations dated Aug. 29, 1921 (TS 660, *post*, HUNGARY).

⁴ TS 822, *post*, p. 358.

⁵ *Department of State Bulletin*, Mar. 21, 1948, p. 382.

⁶ TIAS 1651, *ante*, vol. 4, p. 457.

⁷ For a detailed study of this convention, see 7 Miller 401.

respectively, that persons committing certain heinous crimes, being fugitives from justice, should under certain circumstances, be reciprocally delivered up; and also to enumerate such crimes explicitly; and whereas, the laws of Austria forbid the surrender of its own citizens to a foreign jurisdiction, the government of the United States, with a view of making the Convention strictly reciprocal, shall be held equally free from any obligation to surrender citizens of the United States; therefore on the one part the United States of America and on the other part His Majesty the Emperor of Austria, having resolved to treat on this subject, have for that purpose appointed their respective plenipotentiaries to negotiate and conclude a Convention—that is to say:

The President of the United States, William L. Marcy, Secretary of State, and His Majesty the Emperor of Austria, John George Chevalier de Hülse-mann, His said Majesty's Minister Resident near the government of the United States, who, after reciprocal communication of their respective powers, have agreed to and signed the following articles:

ARTICLE I

It is agreed that the United States and Austria shall, upon mutual requisitions by them or their ministers, officers or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the fabrication or circulation of counterfeit money, whether coin or paper money, or the embezzlement of public moneys, committed within the jurisdiction of either party, shall seek an asylum, or shall be found within the territories of the other: *Provided*, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective judges and other magistrates of the two governments shall have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive. The provisions of the present Convention shall not be applied, in any manner, to the crimes enumerated in the First Article, committed anterior to the date thereof; nor to any crime or offence of a political character.

ARTICLE II

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Convention.

ARTICLE III

Whenever any person accused of any of the crimes enumerated in this Convention shall have committed a new crime in the territories of the State where he has sought an asylum, or shall be found, such person shall not be delivered up under the stipulations of this Convention until he shall have been tried and shall have received the punishment due to such new crime, or shall have been acquitted thereof.

ARTICLE IV

The present Convention shall continue in force until the 1st of January, 1858; and if neither party shall have given to the other six months' previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the high contracting parties shall have given notice to the other of such intention; each of the high contracting parties reserving to itself the right of giving such notice to the other at any time after the expiration of the said 1st day of January, 1858.

ARTICLE V

The present Convention shall be ratified by the President, by and with the advice and consent of the Senate of the United States, and by His Majesty the Emperor of Austria, and the ratifications shall be exchanged at Washington within six months from the date hereof, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this Convention and have hereunto affixed their seals.

Done in duplicate at Washington the third day of July, in the year of our Lord one thousand eight hundred and fifty-six and of the Independence of the United States the eightieth.

W. L. MARCY [SEAL]

HÜLSEMANN [SEAL]